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AICPA *Washington Report*

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FEDERAL HOME LOAN BANK BOARD

Discretion to waive some requirements during mergers of savings and loan associations that switch to or from federal charters for supervisory reasons was recently authorized as the Board adopted a rule on the subject, 3/9/82. According to the Board staff, the rule clarifies the Board's authority to determine when procedural rules do not apply to charter conversions when the conversion is for the purpose of merging a sick institution with a healthy one. Currently, the Board has the authority to waive some procedural rules when an institution that is converting charters is insured by the FSLIC. The new rule extends that authority to any conversions undertaken for supervisory reasons. The rule is effective 3/9/82. In other action, the Board proposed to redefine a term in its insurance rules so that participants in a deferred compensation plan are insured for the full amount of their vested interest in the plan. Under the proposed rule, deferred compensation plans would be included in the definition of a trust estate. Comments are requested by 4/10/82.

FEDERAL TRADE COMMISSION

"The Commission opposes any provision of law that grants, or would grant state-regulated professionals (and associations of professionals) immunity from law enforcement that others do not enjoy." This is the statement of FTC Chairman James C. Miller III in a 3/5/82 letter to Sens. Bob Packwood (R-OR), Chairman, Committee on Commerce Science and Transportation, and Bob Kasten (R-Wis), Chairman of the Consumer Subcommittee. Mr. Miller was responding to an earlier letter asking for the Commission's views on its jurisdiction over state-regulated professionals and unfair acts or practices as currently defined in section 5 of the Federal Trade Commission Act, especially in light of S. 1984, a bill that could substantially restrict FTC authority in this area. While the Commission endorsed a statutory clarification of its unfairness jurisdiction (with a dissent from Commissioner Pertschuk), it is generally opposed to the provisions of S. 1984. Regarding provisions that would remove authority under Section Six of the Act, allowing investigation of state-regulated professions, Mr. Miller said, "The consequences of these proposals are most disturbing. In sum, they would prohibit the Commission from taking any action against, or even investigating, classic collusive activities, such as price fixing the group boycotts, in the professions." Sen. Kasten's Consumer Subcommittee is currently scheduled to hold hearings on S. 1984 on 3/18 and 3/19/82. The antitrust authority of the FTC, including the area of state-regulated professionals, will not be a topic of these hearings.

NATIONAL CREDIT UNION ADMINISTRATION

Deregulation of terms, conditions and classes of accounts offered by federal credit unions was recently proposed for public comment by the Board (see the 3/10/82 Fed. Reg. pp. 10234-35). The proposal is intended to give credit unions complete freedom, within the law, to create new types of accounts and to eliminate current disclosure regulations for all accounts. The action follows an endorsement by over 80 percent of those responding to an advance notice to deregulate share accounts.

In a related action, the NCUA Board adopted a final rule authorizing credit unions to charge interest rates up to 21 percent per year on loans made after 9/2/81 and before 9/5/83 (see the 3/10/82 Fed. Reg., pp. 10199-200). Comments on the proposal to deregulate share accounts are requested by 4/10/82. For additional information contact Randall Miller at 202/357-1090.

OFFICE OF MANAGEMENT AND BUDGET

An integrated proposal for the Uniform Federal Procurement System, as developed by the OMB's Office of Federal Procurement Policy, was submitted in final form to the Congress on 2/26/82. In the summary of the 212 page report recently

available in limited copies, the OMB states that the principal features of the proposed Federal Procurement System include a streamlined management structure with clear lines of authority, responsibility and accountability and, decentralized agency procurement operations that are responsive, efficient, and freed of cumbersome rules and regulations. Printed copies of this report in sufficient quantities for broad public distribution will, according to OMB, be available in four to six weeks.

TREASURY, DEPARTMENT OF

The first six months of sick pay paid to an employee on or after 1/1/82, are subject to Social Security and railroad retirement taxes under provisions of the 1981 Social Security amendments (PL-97-123). In order to give taxpayers guidance on the changes, the IRS has issued revenue procedure 82-20, which is set out in question and answer form. The procedure explains that there will be no penalties or interest for failure to make timely payments of FICA taxes for sick pay during the period 1/1/82 through 6/30/82, to the extent the taxes are attributable to the new provisions of the law; the failure is due to reasonable cause and not willful neglect and the taxes are paid on or before 6/30/82. The procedure also discusses certain exceptions provided for third party payors, such as an insurance company. Rev. Proc. 82-20 will be published in Internal Revenue Bulletin 1982-12, dated 3/22/82.

The establishment of a five part test for determining whether an individual is an independent contractor for tax purposes is the subject of a measure designed to hopefully resolve the issue concerning the status of independent contractors. H.R. 5729, introduced by Rep. Richard Gephardt (D-MO), on 3/4/82, would identify an individual as an independent contractor if: the person controls the number of hours he works; rents his place of business; incurs substantial income fluctuations because his pay is directly related to sales or invests a substantial amount in assets relating to the performance of the service; performs service under a written contract providing the individual will not be treated as an employee for employment tax purposes; and, the organization for whom the services are performed files all required information. Rep. Gephardt had originally introduced the proposal in the 96th Congress as H.R. 3245, which latter became H.R. 5460. Due to a controversial 10 percent withholding requirement, H.R. 5460 was never considered by the full committee. Sen. Robert Dole (R-KS) introduced a similar measure, S. 8, containing the five basic determination tests on 1/5/81. H.R. 5729 is scheduled for hearings on 3/23-24/82, by the Ways and Means Select Revenue Measures Subcommittee.

SPECIAL: PROMPT PAYMENT ACT PASSED BY HOUSE COMMITTEE

H.R. 4709, the "Prompt Payment Act," a bill requiring the Federal Government to pay interest to businesses for overdue payments, was amended and passed by voice vote of the House Government Operations Committee. In general, the bill now provides that where a "proper" invoice has been received by the government and payment was not effected within 30 days, interest begins to accrue. The government then has an additional 15 days to make the payment and interest. The Senate version of this bill, S. 1131, the "Delinquent Payments Act of 1981," has a 30 day payment period with no 15 day grace period. The bill was passed by the Senate on 12/15/81. The House bill is not yet scheduled for floor action. If H.R. 4709 is approved in current form, a House-Senate Conference will be called to reconcile the minor differences.

SPECIAL: TAXPAYER COMPLIANCE IMPROVEMENT ACT OF 1982 INTRODUCED

Legislation to raise \$20 billion in revenues by reducing individual and corporate tax evasion through understatement of tax liability was recently introduced by Sens. Robert Dole (R-Kan) and Charles Grassley (R-IA). The bill, S. 2198,

titled the "Taxpayer Compliance Improvement Act of 1982," would increase reporting requirements, raise penalties for non-compliance, bolster IRS computer capabilities and strengthen voluntary withholding for annuities. Sen. Dole, Chairman of the Committee on Finance, has indicated that Rep. Barber Conable (R-NY), ranking minority member on the House Ways and Means Committee, plans to introduce the measure in the House. S. 2198, according to the Finance Committee staff explanation, would require additional reporting, including information returns of state and local tax refunds to taxpayers who may have received a tax benefit for paying the tax in a prior year, and the reporting of charged tips exceeding \$600. Several non-compliance penalties are increased, including the penalty for substantial understatement, which becomes \$50 per failure to report up to \$50,000 in total penalties. Sen. Dole, at a recent press conference, said that the bill would be the subject of hearings 3/22/82, before Sen. Grassley's Finance Oversight Subcommittee.

SPECIAL: HOUSE HEARING HELD ON FEDERAL ROYALTIES MEASURE--AICPA TESTIFIES

A comprehensive program for the reporting and the auditing of federal royalties should be developed, according to testimony voiced by Irving Hoffman, Chairman of the AICPA's Federal Government Executive Committee at a 3/11/82 House Interior Subcommittee on Mines and Mining hearing. The Institute was asked to respond to the auditing provisions contained in H.R.5121, the "Federal Royalties and Rents Collection Act of 1981." Concerning the reporting and auditing program, Mr. Hoffman stated, "the system should identify those leases with the maximum revenue potential and the greatest likelihood of understatement of royalties." Also testifying were Perry Pendley, Acting Director of the Interior Department's Minerals Management Service; Denise Fort, Counsel for the Taxation and Revenue Department of the State of New Mexico; and, Jim Griffith, State Auditor for Wyoming. Subcommittee mark up is expected this week.

For additional information, please contact Jim Kovakas, Gina Rosasco, Nick Nichols or Kathee Baker at 202/872-8190.

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